

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

RAYMOND ALLEN,

Petitioner,

v.

CIVIL ACTION NO. 2:08-00184

TERESA WAID, Acting Warden,
Huttonsville Correctional Center,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is petitioner's Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus.* (Doc. No. 1.) By Standing Order, this matter was referred to United States Magistrate Judge Mary E. Stanley on March 20, 2008. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge Stanley to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge Stanley submitted her Proposed Findings and Recommendation ("PF & R") on October 9, 2008, recommending that this court dismiss the petition as untimely. (Doc. No. 23 at 12.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which

* Petitioner originally filed this action in the United States District Court for the Northern District of West Virginia as a petition pursuant to 28 U.S.C. § 2241. (Doc. No. 23 at 1.) On March 20, 2008, the presiding magistrate judge determined that it should be treated as a petition filed pursuant to 28 U.S.C. § 2254, and the case was transferred to this court. (Id.)

to file any objections to Magistrate Judge Stanley's PF & R. Neither party filed objections to the magistrate judge's proposed findings, and the failure to file objections within the appropriate time frame constitutes a waiver of the right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge Stanley, the court (1) **CONFIRMS AND ACCEPTS** the magistrate judge's findings (Doc. No. 23); (2) **GRANTS** respondent's Motion to Dismiss Petition for Writ of Habeas Corpus as Untimely (Doc. No. 18); and (3) **DISMISSES** the petition (Doc. No. 1).

The Clerk is directed to remove this action from the court's active docket. The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to petitioner and to all counsel of record.

It is **SO ORDERED** this 30th day of October, 2008.

ENTER:



David A. Faber
United States District Judge